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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,031	01/02/2001	William J. Payer		2037

7590 11/17/2006

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EXAMINER

NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3635

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,031

Applicant(s)

PAYER, WILLIAM J.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This Office action is in response to the applicant's amendment filed on 6/22/2005.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/22/2005 has been entered.

Status of Claims

Claims 1-28 are pending and have been examined.

Response to Arguments

Applicant's arguments filed 6/22/2005 have been fully considered but they are not persuasive.

Applicant argued that the Graham-Wood prior art does not provide for parallel horizontal tie members between frames. Examiner does not agree with the applicant's argument because Figs. 4 and 5 of Graham-Wood's prior art shows vertical or column steel members 13 and horizontal steel members 12. The vertical and horizontal members are secured by fastener means (see Fig. 6). Note that the fastener means such as screws and welds are well known and old in the art, which are normally used to interconnect metal frame structures.

Claim Objections

Claim 2 is objected to because of the following informalities: the applicant is advised to remove either one of "the" or "said" on lines 10 and 14.

Claims 4, and 5 stand objected to because of the claimed preambles are inconsistent with their independent claim 2. Correction is required.

Claim Rejections - 35 USC § 112

Claims 1-28 stand rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Specifically in claim 1, "The method...step sequences" is considered indefinite, lengthy and confusing; for example, on lines 10-12 "positioning said horizontally members at vertical height interval to secure and support future positioned perpendicularly members to said horizontally members in said multi-story building site assemblage..." is unclear. Also, claim 1 contains more than one period. The phrases "the inward boundaries" on lines 13, 14, and "the outward boundaries" on line 18 lack antecedent basis.

Claim 2 has more than one ending period (last two lines), and lacks antecedent basis: "the outward boundaries" on line 4. The citation on lines 8-9 "partially perforated

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shape or shapes" is indefinite and the citation on line 18 "perpendicularly to vertical part" should read --perpendicularly to said vertically part--. Also in claim 2, "horizontally" (line 3) should be --horizontal--. The error appears throughout the claims.

The citation "said frame assemblage" (claim 6, line 2) lacks antecedent basis.

Claims 3, and 6-28 are indefinite because dependent claims 3, and 6-28 depend from method claim 1 but no actual method steps are claimed.

Claim 4 depends from article claim 2 but presents the method step of "utilizing horizontally positioned beams and girders with said girders webs perforated with said beams extending continuously through boundaries of partially perforated webs, with part of partially perforated web rotated perpendicular and continuously attached to said girder web, with said beam secured to said partially perforated web rated part" which is confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3,304,675 to Wood.

Claims 2, 4, and 5:

Wood discloses a building structure comprising a plurality of vertical or column steel members 11, a plurality of horizontal or floor steel members 12, which define a boundary bolted to a foundation 10; each column 11 having a rectangular frame formed of channel sectioned steel side members 13 and end members 14, and each of the floor beams 12 is made out of metal and has a z-shaped cross section, having flange 17 and web 19. Girders (where 41 points to) having upper chord, lower chord, webs in between, and the z-shaped cross section beam having a plural of perforated webs (Fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 1, 3, 6-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 3,304,675 to Wood in view of US Pat. No. 3,605,350 to Bowers and further in view of US Pat. No. 5,638,651 to Ford.

Wood discloses the basic structural elements for the building structures as stated except for the structural members are jointed by welds (claims 14, 18, 22) and coated with rust-inhibitive material (claims 12-13). Bowers discloses a building construction comprising a plurality of vertical members 18, a plurality of horizontal members 12, 14 forming a typically rectangular configuration and defining a boundary

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with a foundation 32. The vertical members 18 are tubular steel posts and are welded to the side beams 12, 14 (see col. 3, lines 58-70). And Ford further discloses an interlocking panel building system, which includes galvanized steel channels 148 within the panels 146. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Wood and in view of Bowers and Ford for joining building structures together by welds and coating steel members by galvanized coating. The motivation for doing so would have been to prevent corrosion and to provide a strong securement for the building structures.

Method claims 1, 3, 6-28: Wood in view of Bowers and Ford disclose the structural elements for the building members as stated except for a method of constructing, examiner considers this to be an obvious method because in constructing a building, it is well known to one of ordinary skill in the art to form a foundation, erect steel post members over the foundation, join horizontal beams with the vertical posts by welds or fasteners, secure the girders over the horizontal beams, and coat the steel members to prevent corrosion.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN

11/2/2006



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